

August 10, 2009

Honesto Gatchalian  
Energy Division  
Tariff Unit, 4th Floor  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: Partial Protest of the Independent Energy Producers Association of  
Southern California Edison Company's Advice 2364-E**

Dear Mr. Gatchalian:

The Independent Energy Producers Association (IEP) presents its partial protest of and comments on Advice (AL) 2364-E, submitted by Southern California Edison Company (SCE) on July 20, 2009. AL 2364-E seeks approval of a competitive solicitation process for procuring 250 MW of solar photovoltaic (PV) power, as authorized by Decision (D) 09-06-049 and of a proposed standard power purchase agreement (PPA). IEP supports competitive solicitations of generation resources and does not oppose AL 2364-E. However, modification of a few details of SCE's proposal could improve the solicitation process and advance the goals the Commission established in D.09-06-049.

A workshop on SCE's proposal was held on July 31, and that workshop was valuable in clarifying some of the details of SCE's proposal. As a result, IEP will address only a few topics.

**Buy-Out Option.** SCE proposes to include a buy-out option in the PPA, under which SCE would have the sole discretion to purchase the solar installation at the end of the contract term for a price of \$100 per MW. (PPA, § 10.) This option was widely opposed at the workshop, and IEP hereby formally protests this portion of AL 2364-E for the following reasons:

- The buy-out option was not authorized or even mentioned in D.09-06-049.
- The buy-out option discourages repowering of the solar installation with more efficient panels in the later years of the contract. PV technology is rapidly improving, and it is likely that significant improvements in efficiency will occur over the 20-year term of the PPA. Improved efficiency should be encouraged, not discouraged.

- The buy-out option could deprive the developers of the possibility of capturing the investment tax credit, a primary component of the financing of renewable energy projects. The buy-out option may be viewed as creating a lease with option to buy, which would have significant tax and financing implications.
- The buy-out option deprives developers of any residual value in the facility or in the site, and bids may be higher as a result.

At the July 31 workshop, SCE representatives indicated that this proposal may be withdrawn, and IEP certainly encourages that action. If the proposal is not withdrawn, however, the Energy Division and the Commission should ensure that any such provision is excluded from the approved version of the PPA.

**Identification of Best Locations.** In response to the Commission's direction to "identify locations where distributed solar PV will be desirable, thereby optimizing the locational value of the project sites," SCE proposes to develop a list of zip codes identifying the preferred locations. While that information is a step in the right direction, additional information may be needed. A single zip code may include several circuits, and unless SCE is proposing to identify only zip codes where all circuits can accommodate additional generation without triggering upgrades, zip code information may still not be sufficiently detailed to provide a potential developer with information about whether a specific site is likely to trigger the need for an upgrade. IEP recognizes that system impact studies may be required to determine definitively whether upgrades will be triggered by a specific project and that proposals for other nearby generation can affect the need for upgrades. It would nevertheless be very helpful if SCE could establish a process for responding to requests about specific sites, *e.g.*, can the system accommodate the addition of 1.2 MW at this location without triggering the need for upgrades? Because triggering upgrades to the transmission system is a ground for termination (PPA, § 6.1.5), developers need as much information as possible on this issue before spending time and money to secure site control and taking other preliminary steps toward participation in the RFO.

**Project Viability Calculator.** Some participants at the July 31 workshops objected to use of the Project Viability Calculator. However, consistent use of the calculator in connection with competitive solicitations will benefit renewable developers by ensuring the unviable projects are not clogging interconnection cues or occupying MW blocks that should be filled by viable projects. The Project Viability Calculator developed by Energy Division staff and approved in D.09-06-018 is simple and workable. IEP acknowledges that an excessive reliance on the Project Viability Calculator is not warranted, but it is an important and useful tool for identifying the projects that are most likely to be completed and completed on time. If the developer experience criteria appear to screen out new entrants unnecessarily, then perhaps a

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higher development security amount (*e.g.*, \$30/kW) could be substituted to improve the likelihood that the project will achieve commercial operation.

**Multi-round Bidding.** AL 2364-E indicates that SCE might consider a “multi-round selection process” for the RFOs for its PV program. A multi-round approach might be worth fleshing out in the future, but as described at the workshop this approach would create uncertainty and undermine the concept of the final, binding bid. The multi-round bidding proposal should not be approved as part of the Commission’s approval of this advice letter.

\* \* \*

IEP respectfully urges the Commission to approve AL 2364-E with the modifications IEP has suggested.

Very truly yours,

GOODIN, MACBRIDE,  
SQUERI, DAY & LAMPREY, LLP

By

  
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cc: Julie Fitch, Director, Energy Division  
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Service list for A.08-03-015

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